



**PATENT
LEC01 P427**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1743
Examiner : Natalia A. Levkovich
Applicant : Joel C. Mitchell
Serial No. : 10/780,940
Filed : February 18, 2004
Confirmation No. : 2291
For : **ANALYZER WITH VARIABLE VOLUME BALLAST CHAMBER
AND METHOD OF ANALYSIS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

DECLARATION UNDER 37 C.F.R. § 1.132 OF LARRY O'BRIEN

I, Larry O'Brien, hereby declare:

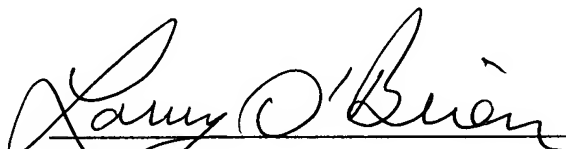
1. I am the Vice President of Research and Development for Leco Corporation of St. Joseph, Michigan, the Assignee of the above-identified application.
2. I am familiar with the Bredeweg patent 4,622,009, which discloses an analyzer Model No. CHN-1000 made by Leco Corporation, the Assignee of the present application.
3. The Leco analyzer, Model No. CHN-1000, uses a fixed volume ballast chamber.
4. In the Leco analyzer, Model No. CHN-1000, the fixed distance referred to by the Examiner in column 7, lines 57-60, is accomplished by a fixed stop in the ballast chamber for the piston.
5. The Bredeweg '009 patent does not suggest the use of a piston sensor or encoding device since the structure disclosed by the '009 patent uses a fixed piston stop, as seen in Fig. 4, to control the fixed distance through which the piston always moves.

6. The ballast in the '009 patent is filled to the same volume for every analysis.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and further, these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Sections 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

2-2-05

Date


Larry O'Brien